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6 **BEFORE THE**  
7 **BOARD OF REGISTERED NURSING**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-192

11 **MELISSA UTTERMARK,**  
12 **aka MELISSA MARIE UTTERMARK,**  
13 **aka MELISSA MARIE UTTERMARK-**  
14 **ARRINGTON**  
15 **5345 E. Vanburen, #312**  
16 **Phoenix, AZ 85008**  
17 **Registered Nurse License No. 563504**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

Respondent.

18 **FINDINGS OF FACT**

19 1. On or about September 29, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs, filed Accusation No. 2012-192 against Melissa Marie Uttermark (Respondent)  
22 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

23 2. On or about February 4, 2000, the Board of Registered Nursing (Board) issued  
24 Registered Nurse License No. 563504 to Respondent. The Registered Nurse License expired on  
25 April 30, 2003, and has not been renewed.

26 3. On or about September 29, 2011, Respondent was served by Certified and First Class  
27 Mail copies of the Accusation No. 2012-192, Statement to Respondent, Notice of Defense,  
28 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
and 11507.7) at Respondent's address of record which, pursuant to California Code of

1 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.

2 Respondent's address of record was and is:

3 5345 E. Vanburen #312  
4 Phoenix, AZ 85008.

5 4. On or about November 7, 2011, the First Class mailing was returned by the U.S.  
6 Postal Service and on November 8, 2011, the Certified mailing was returned by the U.S. Postal  
7 Service, with both mailings marked "Undeliverable as Addressed, Forwarding Order Expired".

8 5. On or about November 9, 2011, Respondent was served by Certified and First Class  
9 Mail copies of the Accusation No. 2012-192, Statement to Respondent, Notice of Defense,  
10 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
11 and 11507.7) at an alternative address that came to the attention of the Board, which is:

12 127 Autumn Haven Lane  
13 Madison, AL 35758

14 6. On or about November 29, 2011, the First Class mailing of November 9, 2011, was  
15 returned by the U.S Postal Service marked "Attempted Not Known".

16 7. Service of the Accusation was effective as a matter of law under the provisions of  
17 Government Code section 11505, subdivision (c) and/or Business & Professions Code  
18 section 124.

19 8. Government Code section 11506 states, in pertinent part:

20 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
21 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
22 of the accusation not expressly admitted. Failure to file a notice of defense shall  
constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
may nevertheless grant a hearing.

23 9. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
24 the Accusation, and therefore waived her right to a hearing on the merits of Accusation  
25 No. 2012-192.

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10. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

11. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2012-192, finds that the charges and allegations in Accusation No. 2012-192, are separately and severally, found to be true and correct by clear and convincing evidence.

12. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$842.50 as of December 9, 2011.

## DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Melissa Marie Uttermark has subjected her Registered Nurse License No. 563504 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.

a. Business and Professions Code section 2761, subdivision (a)(4): Respondent was disciplined by the Arizona State Board of Nursing ("Arizona Board"). On January 6, 2011, pursuant to Consent Agreement and Order No. 1002018 in the disciplinary proceeding titled "*In the Matter of Registered Nurse License No. RN115663 Issued to: Melissa Marie Uttermark-Arrington*", the Arizona Board suspended Respondent's license to practice registered nursing in the State of Arizona for a period not to exceed two years, and pending successful completion of certain terms and conditions. The disciplinary action was based upon the following:

1           1.     On or about February 22, 2010, Respondent self-reported to the Arizona Board  
2     that she was charged with driving under the influence in Mesa, Arizona. An investigation found  
3     that on or about August 4, 2009, Respondent had been arrested and charged with two counts of  
4     aggravated driving under the Influence (DUI), class 6 felonies. Respondent's urine drug screen  
5     results were reported as positive for benzodiazepines and opiates. On April 22, 2010, in  
6     Maricopa County Superior Court, Case No. 2010-102292-001, Respondent pled guilty to driving  
7     under the influence of intoxicating liquor, drugs, or toxic vapors, a class 1 misdemeanor.  
8     Subsequently, on October 18, 2010, in a telephone interview with Arizona Board staff,  
9     Respondent informed the staff that she had a post-partum psychotic break and required treatment  
10    in or about August 2010. Respondent admitted she was overusing her prescribed pain  
11    medications for a back injury sustained on the job and attended inpatient treatment.

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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED July 20, 2012

10769904.DOC  
DOJ Matter ID: SA2011100757

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# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
4 State Bar No. 186131  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-7384  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2012-192*

12 **MELISSA UTTERMARK,**  
13 **aka MELISSA MARIE UTTERMARK,**  
**aka MELISSA MARIE UTTERMARK-ARRINGTON**  
14 **5345 E. Vanburen, #312**  
**Phoenix, AZ 85008**  
15 **Registered Nurse License No. 563504**

**A C C U S A T I O N**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
21 Department of Consumer Affairs.

22 2. On or about February 4, 2000, the Board issued Registered Nurse License  
23 Number 563504 to Melissa Uttermark, also known as Melissa Marie Uttermark and Melissa  
24 Marie Uttermark-Arrington ("Respondent"). Respondent's registered nurse license expired on  
25 April 30, 2003.

26 **STATUTORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing  
2 Practice Act.

3 4. . . Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
5 to render a decision imposing discipline on the license.

6 5. Code section 2761 states, in pertinent part:

7 The board may take disciplinary action against a certified or licensed  
8 nurse or deny an application for a certificate or license for any of the following:

9 (a) Unprofessional conduct . . .

10 . . . .

11 (4) Denial of licensure, revocation, suspension, restriction, or any other  
12 disciplinary action against a health care professional license or certificate by another  
13 state or territory of the United States, by any other government agency, or by another  
14 California health care professional licensing board. A certified copy of the decision  
15 or judgment shall be conclusive evidence of that action . . .

#### 14 COST RECOVERY

15 6. Code section 125.3 provides, in pertinent part, that the Board may request the  
16 administrative law judge to direct a licensee found to have committed a violation or violations of  
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
18 enforcement of the case.

#### 19 CAUSE FOR DISCIPLINE

##### 20 (Disciplinary Action by the Arizona State Board of Nursing)

21 7. Respondent is subject to disciplinary action pursuant to Code section 2761,  
22 subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by the  
23 Arizona State Board of Nursing ("Arizona Board"), as follows: On or about January 6, 2011,  
24 pursuant to Consent Agreement and Order No. 1002018 in the disciplinary proceeding titled "In  
25 the Matter of Registered Nurse License No. RN115663 Issued to: Melissa Marie Uttermark-  
26 Arrington", the Arizona Board suspended Respondent's license to practice registered nursing in  
27 the State of Arizona for a period not to exceed two years, and pending successful completion of  
28 certain terms and conditions. A true and correct copy of Consent Agreement and Order

1 No. 1002018 is attached as **Exhibit A** and incorporated herein by reference. Respondent  
2 admitted as follows: On or about February 22, 2010, Respondent self-reported to the Arizona  
3 Board that she was charged with driving under the influence in Mesa, Arizona. The Board  
4 conducted an investigation and found that on or about August 4, 2009, Respondent had been  
5 arrested and charged by the Mesa Police Department with two counts of aggravated driving under  
6 the Influence (DUI); class 6 felonies. It was reported that Respondent's urine drug screen results  
7 were positive for benzodiazepines and opiates. On or about April 22, 2010, in Maricopa County  
8 Superior Court, Case No. 2010-102292-001, Respondent pled guilty to driving under the  
9 influence of intoxicating liquor, drugs, or toxic vapors, a class 1 misdemeanor. On October 18,  
10 2010, in a telephone interview with Arizona Board staff, Respondent informed the staff that she  
11 had a post-partum psychotic break and required treatment in or about August 2010. Respondent  
12 admitted that she was overusing her prescribed pain medications for a back injury sustained on  
13 the job and attended inpatient treatment.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board of Registered Nursing issue a decision:

- 17 1. Revoking or suspending Registered Nurse License Number 563504, issued to Melissa  
18 Uttermark, also known as Melissa Marie Uttermark and Melissa Marie Uttermark-Arrington;  
19 2. Ordering Melissa Uttermark, also known as Melissa Marie Uttermark and Melissa  
20 Marie Uttermark-Arrington, to pay the Board of Registered Nursing the reasonable costs of the  
21 investigation and enforcement of this case, pursuant to Business and Professions Code  
22 section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED:

*September 29, 2011 Louise R. Bailey*

LOUISE R. BAILEY, M.Ed., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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**EXHIBIT A**

**Consent Agreement and Order No. 1002018**

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF REGISTERED  
NURSE LICENSE NO. RN115663  
ISSUED TO:

MELISSA MARIE UTTERMARK-  
ARRINGTON  
RESPONDENT

CONSENT AGREEMENT  
AND  
ORDER NO. 1002018

CONSENT AGREEMENT

A complaint charging Melissa Marie Uttermark Arrington (hereinafter "Respondent") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing (hereinafter "Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07 (F)(5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter:

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent holds Board issued registered nurse license no. RN115663 (expired).
2. On or about February 22, 2010, Respondent self-reported to the Board that she was charged with driving under the influence in Mesa, Arizona in or about July 2009. Based on the self report the Board conducted an investigation.
3. On or about August 4, 2009 according to Mesa Police Department report # 2009-2160579 Respondent was arrested and charged with two counts Aggravated Driving Under the Influence (DUI), class 6 felonies. It was reported that Respondent's urine drug screen results were positive for Benzodiazepines and Opiates.

4. According to Maricopa County Superior Court record # 2010-102292-001, on or about April 22, 2010 Respondent pled guilty to Driving Under the Influence of Intoxicating Liquor, Drugs or Toxic Vapors, a class 1 misdemeanor.

5. On October 18, 2010, in a telephonic interview with Board staff, Respondent informed that she had a post-partum psychotic break and required treatment in or about August 2010. Respondent admitted that she was overusing her prescribed pain medications for a back injury sustained on the job and attended inpatient treatment.

6. According to Respondent, on or about September 21, 2010, Respondent completed treatment at River Source Drug and Alcohol Treatment Center in Mesa, Arizona. She also attended 90 Alcoholic Anonymous/ Narcotic Anonymous (AA/NA) meetings in 90 days and was enrolled in Aftercare.

#### CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

The conduct and circumstances alleged in the Factual Allegations constitute violations of A.R.S. § 32-1663 (D) as defined in A.R.S. § 32-1601 (16)(d) (Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public); and (j) (Violating a rule that is adopted by the Board pursuant to this chapter)(effective May 9, 2002); A.R.S. § 32-1601 (18)(d) (Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public); and (j) (Violating a rule that is adopted by the Board pursuant to this chapter)(effective October 14, 2009); A.R.S. § 32-1663 (D) as defined in A.R.S. § 32-3208 (A) and (D) Criminal mandatory reporting requirements, (A) (A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after

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receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed), (D) (A health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct. The health professional's regulatory board may impose a civil penalty of not more than one thousand dollars in addition to other disciplinary action it takes), (effective September 19, 2003).

A.A.C. R4-19-403 (18) (Obtaining, possessing, administering, or using any narcotic, controlled substance, or illegal drug in violation of any federal or state criminal law, or in violation of the policy of any health care facility, school, institution, or other work location at which the nurse practices) (effective February 2, 2009)

A.A.C. R4-19-403 (25) (a) (Failing to: a. Furnish in writing a full and complete explanation of a matter reported pursuant to A.R.S. 32-1664), (effective February 2, 2009).

A.A.C. § R4-19-403 (28) (If a licensee or Respondent is charged with a felony or a misdemeanor involving conduct that may affect patient safety, failing to notify the Board in writing, as required under A.R.S. § 32-3208, within 10 days of being charged. The licensee or Respondent shall include the following in the notification: (a) (Name, address, telephone number, social security number, and license number, if applicable); (b) (Date of the charge) and (c) (Nature of the offense) (effective February 2, 2009);

A.A.C. § R4-19-403(31) (Practicing in any other manner that gives the Board reasonable cause to believe the health of a patient or the public may be harmed) (effective February 2, 2009) (effective February 2, 2009); and

A.A.C. § R4-19-403(25) (Failing to: (a) (Furnish in writing a full and complete explanation of a matter reported pursuant to A.R.S. § 32-1664).

The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1664(N) to revoke; suspend or take other disciplinary action against the license of Respondent to practice as a registered nurse in the State of Arizona.

Respondent admits the Board's Findings of Fact and Conclusions of Law.

In lieu of a formal hearing on these issues, Respondent agrees to issuance of the attached Order and waives all rights to a hearing, rehearing, appeal or judicial review relating to the Order except in the limited circumstance(s) specified in Paragraph 12 of Terms of Suspension and Paragraph 13 of Terms of Probation of the Order.

Respondent understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Respondent understands that those admissions are conclusive evidence of a prior violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

Respondent understands the right to consult legal counsel prior to entering into this Consent Agreement and such consultation has either been obtained or is waived.

Respondent understands that this Consent Agreement is effective upon its acceptance by the Board and by Respondent as evidenced by the respective signatures thereto, Respondent's signature obtained via facsimile shall have the same effect as an original signature. Once signed by Respondent, the Agreement cannot be withdrawn without the Board's approval or by stipulation between Respondent and the Board's designee. The effective date of this Order is the

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date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

Melissa Marie Uttermark Arrington  
Melissa Marie Uttermark Arrington-Respondent

Dated: 1/16/11

SEAL

ARIZONA STATE BOARD OF NURSING

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.  
Executive Director

Dated: November 30, 2010

SNelson/Arrington/RN115663

ORDER

In view of the above Findings of Fact, Conclusions of Law and the consent of Respondent, the Board hereby issues the following Order:

A. Respondent's consent to the terms and conditions of the Order and waiver of public hearing are accepted.

B. Respondent's license is placed on suspension not to exceed two years and pending successful completion of Aftercare, Relapse Prevention Therapy and a RN refresher course. If Respondent does not successfully complete Aftercare, Relapse Prevention Therapy and an RN refresher course required by this Order within twenty-four months and or does not comply with resulting treatment recommendations within twenty-four months the license shall be automatically revoked.

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C. This Order becomes effective upon the Board and the Respondent's acceptance of the Consent Agreement. The effective date is the date the Consent Agreement is signed by the Board and the Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

D. If Respondent is noncompliant with any of the terms of the Order, Respondent's noncompliance shall be reviewed by the Board for consideration of possible further discipline on Respondent's nursing license.

E. If Respondent is convicted of a felony, Respondent's license shall be automatically revoked for a period of five years. Respondent waives any and all rights to a hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.

F. If Respondent fails to renew her license and it remains expired for two or more years, Respondent's license will automatically be revoked. Respondent waives any and all rights to a hearing, rehearing or judicial review of any revocation imposed pursuant to this paragraph.

G. The suspension is subject to the following terms and conditions:

#### TERMS OF SUSPENSION

1. Surrender of License

Respondent agrees to immediately surrender Respondent's license to the Board and will not practice nursing for an indefinite period of time not to exceed twenty four months pending completion of Aftercare, Relapse Prevention Therapy and a RN nurse refresher course.

2. Renewal of License

In the event the license is scheduled to expire during the term of this Order, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualification to practice nursing in Arizona.

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3. Aftercare

Prior to the termination of suspension, Respondent shall enter and must successfully complete a state licensed chemical rehabilitation aftercare program. Upon entry, Respondent shall execute the appropriate release of information form allowing the program to inform the Board of Respondent's entry into the program. Respondent shall also cause the program to submit to the Board, in writing and on the Board-approved form, evidence of satisfactory participation and progress in the program, as well as discharge or termination from the program. Such reports are due beginning on the first quarterly reporting date after entry into the program and quarterly thereafter according to schedule, for the remainder of the probationary period or until completion of the aftercare program.

4. Relapse Prevention Therapy

Within seven days of the completion of any required rehabilitation program and aftercare, Respondent shall enter a Board approved Relapse Prevention Therapy Program. Respondent shall immediately execute the appropriate release of information form(s) to allow the facilitator to communicate information to the Board or its designee, and Respondent shall immediately provide a copy of this Consent Agreement and Order, to include Findings of Fact and Conclusions of Law, to the facilitator. Within seven days of entering treatment, Respondent shall cause the facilitator to submit to the Board written verification of Respondent's enrollment in the Program, and verification of receipt of Respondent's entire Consent Agreement. Thereafter, Respondent shall cause the facilitator to provide quarterly reports to the Board according to the quarterly reporting schedule assigned to Respondent. Respondent shall continue undergoing treatment until the facilitator provides written notification to the Board, indicating

that treatment is no longer needed. The Board reserves the right to amend the Order based on recommendation(s) of treating professional(s).

5. Refresher Course

Prior to the termination of suspension, Respondent shall submit to the Board or its designee a plan for enrollment into a Board-approved RN Nurse Refresher Course/Reentry Program ("Program"). Upon approval of Respondent's plan for enrollment by the Board or its designee, Respondent shall provide a copy of this Consent Agreement and Order to include Findings of Fact and Conclusions of Law to the Program Director. Within three (3) calendar days of acceptance into the Program, Respondent shall cause the Program Director to inform the Board in writing, and on school letterhead, acknowledgment of the Program's receipt of a copy of the Order. Upon verification of Respondent's admission into the Program, Respondent shall be issued a temporary license stamped "REFRESHER COURSE ONLY and Valid in AZ Only" solely for the purpose and time period required to complete the program. If Respondent does not enroll in the program or if Respondent does not successfully complete the program by either withdrawing or failing to pass, within twenty four months of the effective date of this Order Respondent's "Refresher Course Only" license shall not be extended, and Respondent's permanent license shall be automatically revoked.

6. Violation of Suspension

If Respondent violates this Order in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke Respondent's license or take other disciplinary action. If a complaint is filed against Respondent during suspension, the Board shall have continuing jurisdiction until the matter is final, and the period of suspension shall be extended until the matter is final.

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7. Completion of Suspension

Following successful completion of Aftercare, Relapse Prevention and RN Refresher course as determined by the Board or its designee, Respondent's license shall be placed on probation for 36 months. Respondent shall work as a registered nurse for a minimum of twelve months with six of these months being continuous employment (not less than sixteen hours a week) subject to the following terms and conditions:

**TERMS OF PROBATION**  
(Suspension and Standard)

1. Nurse Recovery Group

Within seven days of the effective date of this Order, Respondent shall enroll in a Board-acceptable Nurse Recovery Group if a group is available within forty miles. Respondent shall sign release of information forms allowing the group facilitator to inform the Board, in writing and on letterhead, of Respondent's entry and progress in the group. Respondent shall attend a Nurse Recovery Group once per week and have no "Unexcused" absences or "No call/No show" occurrences.

2. Participation in AA/NA

(a) Within seven days of the effective date of this Order, and throughout the term of this Order, Respondent shall participate at least weekly, or as recommended by the Rehabilitation Program, in Alcoholics Anonymous, Narcotics Anonymous, or an equivalent program, and shall submit to the Board, in writing on Board-approved forms, quarterly reports which are initialed by his/her sponsor. The first report is due by the end of the first month after the effective date of the Order, and quarterly thereafter according to the assigned reporting dates.

(b) Respondent shall obtain a temporary sponsor, if participating in a twelve-step program, within thirty days of the effective date of this Order and a permanent sponsor within sixty to ninety days. Respondent shall maintain a sponsor relationship throughout the terms of this Order.

3. Drug Testing

Within seven days of the effective date of this Order, Respondent shall enroll in a program that meets Board criteria for random drug testing. Random drug testing shall be done at a minimum of once per month and may be required more frequently as requested by the Board or its designee. Respondent shall notify the drug testing laboratory and the Board, in writing, of unavailability to test before the anticipated absence. If Respondent is unable to submit a specimen on a date requested due to illness, Respondent must provide in writing within seven days of the missed specimen documentation from a medical provider who has personally seen Respondent on the day of the requested drug test confirming that Respondent was not physically able to report to the laboratory for drug testing. In addition, any occurrence of the following conditions constitutes noncompliance: a positive drug test showing evidence of any drug other than an authorized drug; submission of a specimen where the integrity has been compromised, as indicated by the presence of adulterants; failure to submit to a drug test on a day when a drug test has been requested by either the Board, its designee, or the laboratory; and submission of a urine sample that is below the acceptable volume or temperature to be tested. A positive drug test showing evidence of any drug other than an authorized drug shall result in immediate notification of Respondent's employer by the Board.

4. Abstain from Alcohol Use

Respondent shall abstain completely from the personal use of alcoholic beverages.

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5. Abstain From Unauthorized Drug Use/Proof of Prescription

Respondent shall abstain completely from the personal use or possession of controlled substances, as defined in the State Controlled Substances Act, and dangerous drugs as defined by law, or any drugs requiring a prescription.

Orders prohibiting Respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to Respondent for a bona fide illness or condition by a medical provider. During the duration of this Order, Respondent shall select one medical provider to coordinate her health care needs and to be aware of all prescriptions utilized by Respondent. Respondent shall immediately submit to that provider a copy of this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and shall execute all release of information form(s) as required by the Board or its designee. The medical provider shall, within one week of the effective date of the consent agreement, inform the Board, in writing, of knowledge of Respondent's Order and provide a list of medications prescribed for Respondent. DURING THE DURATION OF THE CONSENT AGREEMENT, RESPONDENT SHALL CAUSE ALL PROVIDERS TO NOTIFY THE BOARD OF ANY ADDITIONAL MEDICATIONS ORDERED BY THE PROVIDER. THE NOTIFICATION SHALL BE MADE IN WRITING WITHIN ONE WEEK OF THE PROVIDER'S ISSUANCE OF THE PRESCRIPTION.

If Respondent has a lawful prescription for a narcotic or mood-altering drug, Respondent shall cause her prescribing provider to submit monthly reports to the Board by the 30<sup>th</sup> day of each month regarding the continued need for the prescribed narcotic or mood-altering medications. The Board or its designee may, at any time, request the provider to document the continued need for prescribed medications. Respondent shall keep a written record of

medications taken, including over-the-counter drugs, and produce such record upon request by the Board or its designee.

6. One Medical Provider

Within thirty days of the effective date of this Order, Respondent shall submit to the Board for approval the name of one treatment professional of Respondent's choice to conduct medical treatment for Respondent. Within seven days of receipt of approval from the Board, Respondent shall make an appointment to begin participation in treatment. Respondent shall immediately execute the appropriate release of information form(s) to allow the treating professional(s) to communicate information to the Board or its designee, and Respondent shall immediately provide a copy of the entire Consent Agreement to all treating professional(s). Within seven days of the beginning of treatment, Respondent shall cause any and all treating professional(s) to provide written verification of enrollment in treatment and verifying receipt of the consent agreement. Thereafter, Respondent shall cause any and all treating professional(s) to provide quarterly reports to the Board according to the quarterly reporting schedule assigned to Respondent. Respondent shall continue undergoing treatment until the treating professional(s) notify the Board, in writing on letterhead, that treatment is no longer needed. The Board reserves the right to amend the Order based on recommendation(s) of treating professional(s).

7. One Pharmacy/Pharmacy Profiles

Throughout the duration of this Order, Respondent shall use only one pharmacy from which to obtain his prescriptions. Within thirty days of the effective date of the Consent Agreement, Respondent shall submit in writing to the Board the name of every pharmacy and/or facility from which Respondent is currently obtaining prescription medications, and shall submit the name of the pharmacy from which she chooses to obtain future prescriptions. Throughout the

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duration of the Order, Respondent must inform the Board in writing within seven days of any additions or changes in pharmacies from which Respondent obtains medications. Respondent shall submit a copy of all pharmacy profiles to the Board on a quarterly basis according to the assigned reporting due dates, and upon request from the Board or its designee. The first report shall be due on the first quarterly due date after the effective date of this Order.

8. Release of Information Forms

Respondent shall sign all release of information forms as required by the Board or its designee and return them to the Board within ten days of the Board's written request. Failure to provide for the release of information, as required by this paragraph constitutes non-compliance with this Order.

9. Interview with the Board or its Designee

Respondent shall appear in person or telephonically for interviews with the Board or its designee upon request at various intervals and with at least two days notice.

10. Renewal of License

In the event the license is scheduled to expire during the term of this Order, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualification to practice nursing in Arizona.

11. Change of Employment/Personal Address/Telephone Number

Respondent shall notify the Board, in writing, within 7 days of any change in nursing employment, personal address or telephone number. Changes in nursing employment include the acceptance, resignation or termination of employment.

12. Obey All Laws

Respondent shall obey all laws/rules governing the practice of nursing in this state and obey all federal, state and local criminal laws. Respondent shall report to the Board, within 10 days, any misdemeanor or felony arrest or conviction.

13. Costs

Respondent shall bear all costs of complying with this Order.

14. Voluntary Surrender of License

Respondent may, at any time this Order is in effect, voluntarily request surrender of her license.

TERMS OF PROBATION

1. Stamping of License

Upon successful completion of the terms of suspension, as determined by the Board or its designee, Respondent shall be issued a license stamped "PROBATION." While this Order is in effect, if the Board issues any certificates or licenses authorized by statute, except a nursing assistant certificate, such certificate or license shall also be stamped "Probation." Respondent is not eligible for a multistate "Compact" license.

2. Relapse Prevention Evaluation

Eighteen months prior to the termination of the Order or as requested by the Board or its designee, Respondent shall be evaluated by a certified relapse prevention therapist, who is at minimum, Master's prepared. If recommended by the therapist, Respondent shall enter, participate regularly and successfully complete a relapse prevention program, or any other recommendations as designated by the relapse prevention evaluator. Respondent shall comply with any treatment recommendations as recommended by the relapse prevention evaluator.

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If recommended by the evaluator, Respondent shall enroll in a relapse prevention program or other recommended therapy within thirty days of being notified by the Board or its designee of the recommendations from the evaluator. Respondent shall cause the program facilitator to inform the Board, in writing and on letterhead, verification of enrollment in the program. Prior to entry into a relapse prevention program or any type of other recommended therapy, Respondent shall provide a copy of this Consent Agreement and Order to the program facilitator. Respondent shall sign release of information form(s) to allow the facilitator to communicate information with the Board or its designee. Respondent shall participate in the relapse prevention program or therapy until the Board receives written verification from the facilitator that Respondent has successfully completed the program. During participation in the program, Respondent shall cause the program facilitator to provide to the Board, in writing on Board-approved forms, evidence of satisfactory attendance, participation, discharge, and successful completion of the program. Reports are due on the first quarterly reporting date after entry into the relapse prevention program and quarterly thereafter, according to schedule. Violation of this paragraph is noncompliance with the Order.

3. Notification of Practice Settings

Any setting in which Respondent accepts employment, which requires RN licensure, shall be provided with a copy of the entire Order on or before the date of hire. Within three (3) calendar days of Respondent's date of hire, Respondent shall cause her immediate supervisor to inform the Board, in writing and on employer letterhead, acknowledgment of the supervisor's receipt of a copy of this Consent Agreement and Order and the employer's ability to comply with the conditions of probation. In the event Respondent is attending a nursing program, Respondent shall provide a copy of the entire Consent Agreement and Order to the

Program Director. Respondent shall cause the Program Director to inform the Board, in writing and on school letterhead, acknowledgment of the program's receipt of a copy of the Consent Agreement and Order and the program's ability to comply with the conditions of probation during clinical experiences.

4. Quarterly Reports

Within thirty days of the effective date of this Order, and quarterly thereafter, Respondent shall cause every employer Respondent has worked for to submit to the Board, in writing, quarterly employer evaluations on the Board-approved form. In the event Respondent is not employed in nursing or attending school during any quarter or portion thereof, Respondent shall submit to the Board, in writing, a self-report describing other employment or activities on the Board-approved form.

Receipt of confirmation of employment disciplinary action, including written counseling(s), suspension, termination or resignation in lieu of termination from a place of employment, any of which pertains to improper patient care, unsafe practice, inappropriate medication removal or administration, sub-standard documentation, or impairment on duty, positive drug test showing evidence of any drug other than an authorized drug, and/or refusal to submit to an employer requested drug screen/testing, shall be investigated by Board staff and reviewed and substantiated by the Board's designee. If so investigated, reviewed and substantiated, the employment disciplinary action shall be considered as noncompliance with the terms of the Order.

Failure to provide employer evaluations or if not working in nursing, self-reports, within seven days of the reporting date is non-compliance with this Order and is not subject to further review.

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5. Practice Under On-Site Supervision

Respondent shall practice as a registered nurse or in a student nurse capacity, only under the on-site supervision of a registered nurse in good standing with the Board. On-site supervision is defined as having a registered nurse in present in the building while Respondent is on duty. The supervising nurse shall have read this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law, and Order, and shall provide input on Respondent's employer evaluations to the Board. The supervising nurse shall be primarily one person, who may periodically delegate to other qualified personnel, who shall also have read this Consent Agreement and Order to include Findings of Fact, Conclusions of Law. In the event that the assigned supervising nurse is no longer responsible for the supervision required by this paragraph, Respondent shall cause her new supervising nurse to inform the Board, in writing and on employer letterhead, acknowledgment of the new supervisor's receipt of a copy of this Consent Agreement and Order to include the Findings of Fact and Conclusions of Law and the new supervising nurse's agreement to comply with the conditions of probation within ten days of assignment of a new supervising nurse.

6. Acceptable Hours of Work

Respondent shall work only the day or evening shift. Evening shift is defined as a shift that ends prior to midnight. Within a 14-day period Respondent shall not work more than 84 scheduled hours.

Respondent may work three 12-hour shifts in one seven day period and four 12-hour shifts in the other seven-day period, but Respondent may not work more than 3 consecutive 12-hour shifts during this probationary period. Respondent shall not work 2 consecutive 8 hour shifts within a 24 hour period or be scheduled to work 16 hours within a 24 hour period.

7. Registry Work Prohibited

Respondent may not work for a nurse's registry, home health, traveling nurse agency, any other temporary employing agencies, float pool, or position that requires on-call status.

8. Out-Of-State Practice/Residence

Respondent can complete the terms of probation in the State of Alabama. Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, they must first be approved by the Board prior to leaving the state. If Respondent fails to receive such approval before leaving the state, none of the time spent out of state will be credited to the fulfillment of the terms and conditions of this Order.

9. Release of Information Forms

Respondent shall sign all release of information forms as required by the Board or its designee and return them to the Board within ten days of the Board's written request. Failure to provide for the release of information, as required by this paragraph constitutes non-compliance with this Order.

10. Interview with the Board or its Designee

Respondent shall appear in person or telephonically for interviews with the Board or its designee upon request at various intervals and with at least two days notice.

11. Renewal of License

In the event the license is scheduled to expire during the term of this Order, Respondent shall apply for renewal of the license, pay the applicable fee, and otherwise maintain qualification to practice nursing in Arizona.

12. Change of Employment/Personal Address/Telephone Number

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Respondent shall notify the Board, in writing, within seven days of any change in nursing employment, personal address or telephone number. Changes in nursing employment include the acceptance, resignation or termination of employment.

13. Obey All Laws

Respondent shall obey all laws/rules governing the practice of nursing in this state and obey all federal, state and local criminal laws. Respondent shall report to the Board, within ten days, any misdemeanor or felony arrest or conviction.

14. Costs

Respondent shall bear all costs of complying with this Order.

15. Violation of Probation

If Respondent is noncompliant with this agreement in any respect, the Board staff may notify the Respondent's employer of the noncompliance. Additionally, the Board may revoke probation and take further disciplinary action for noncompliance with this agreement after affording Respondent notice and the opportunity to be heard. If a complaint or petition to revoke probation is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

16. Completion of Probation

When Respondent has nine months left in the probationary period, Respondent's compliance will be reviewed by the Board's designee. If Respondent has demonstrated full compliance with all terms of the Order, Respondent will be eligible to participate in a "step-down" component of the Order where reports from AA and Nurse Recovery Group will no

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longer be required, and Respondent shall submit to "on-call" urine drug screens as requested by the Board or its designee.

Respondent is not eligible for early termination of this Order. Upon successful completion of the terms of the Order, Respondent shall request formal review by the Board, and after formal review by the Board, Respondent's nursing license may be fully restored by the appropriate Board action if compliance with this Order has been demonstrated.

SEAL

ARIZONA STATE BOARD OF NURSING

*Joey Ridenour R.N. M.N. F.A.A.N.*

Joey Ridenour, R.N., M.N., F.A.A.N.  
Executive Director

Dated: November 30, 2010

JR/sn:ts

COPY mailed this 8<sup>th</sup> day of December, 2010, by First Class Mail to:

Melissa Marie-Uttermark Arrington  
127 Autumn Haven Lane  
Madison, AL 35758

By: Trina Smith  
Legal Secretary

EXECUTED SEALED COPIES mailed this 21<sup>st</sup> day of January, 2011, by First Class Mail to:

Melissa Marie-Uttermark Arrington  
127 Autumn Haven Lane  
Madison, AL 35758

By: Trina Smith  
Legal Secretary

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